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FEB 27 2009

OFFICE OF PETITIONS

In re Application of
McCormick, et al.
Application No. 09/246,612
Filed: February 8, 1999
Attorney Docket No. 1400.9801020
For: METHOD AND APPARATUS FOR
PROCESSING CALL SIGNALING
MESSAGES

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed October 22, 2008 (certificate of mailing date October 17, 2008). In addition, this decision addresses the petition for withdrawal of the holding of abandonment under 37 CFR 1.181, filed October 22, 2008 (certificate of mailing date October 17, 2008), and the petition under 37 CFR 1.137(b), which was filed in the alternative in the same document.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

Applicants have shown that the non-signing inventor, David Furshpan, has refused to join in the filing of the above-identified application after having been presented with the application papers. Applicants have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This petition under 37 CFR 1.47(a) is **granted** and the application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

A Notice of Abandonment was mailed on September 2, 2008 because applicants did not reply within two months of the mailing of the June 17, 2008 dismissal of applicants' Rule 47(a) petition.

Applicants request withdrawal of the holding of abandonment based on the assertion that applicants had a two month extendable period of time measured from the mailing date of the June 17, 2008 dismissal to file a reconsideration petition and applicants filed a reconsideration petition on October 22, 2008 (certificate of mailing date October 17, 2008) along with a petition for a two month extension of time. Therefore, applicants contend that a reply was timely filed and the application is not abandoned in fact.

The Office concurs with applicants. The June 17, 2008 dismissal set a two month period for reply. The period was extendable under 37 CFR 1.136(a). A review of Office financial records reveals that a two month extension of time was charged on accounting date October 23, 2008. The certificate of mailing date on the petition for extension of time is October 17, 2008. Thus, a proper reply to the June 17, 2008 dismissal was filed within the extendable period for reply.

The petition under 37 CFR 1.181 is **granted**. The petition under 37 CFR 1.137(b) is unnecessary and **dismissed as moot**.

After the mailing of this decision, the application will be forwarded to Technology Center Art Unit 2195 for the re-mailing of a Notice of Allowance and Fee(s) Due with a new period set for reply.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



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McCormick, et al. :
Application No. 09/246,612 :
Filed: February 8, 1999 :
Attorney Docket No. 1400.9801020 :
For: METHOD AND APPARATUS FOR
PROCESSING CALL SIGNALING
MESSAGES

LETTER

Dear Mr. Furshpan:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley

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Senior Petitions Attorney
Office of Petitions

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): James S. McCormick, et al.

Title: **METHOD AND APPARATUS FOR PROCESSING CALL
SIGNALING MESSAGES**

App. No.: 09/246,612

Filed: 02-08-1999

Adjustment date: 02/27/2009 CKHLOK
10/22/2008 MBLANCO 00000006 09246612
-490.00 OP
01 FC:1252

Examiner: Tang, Kenneth

Group Art Unit: 2195

Atty. Dkt. No. 1400.9801020

02/27/2009 CKHLOK 00000016 09246612

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01 FC:1252 490.00 OP

**PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER
37 CFR 1.181(a) OR, IN THE ALTERNATIVE, PETITION FOR REVIVAL OF
AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY
UNDER 37 C.F.R. § 1.137(b)**

Dear Sir:

The Office acknowledges a petition under 37 CFR 1.47(a) was filed August 30, 1999, noting a certificate of mailing date of August 25, 1999. On March 20, 2006, the Office mailed a copy of the decision on the petition, whereby the Office dismissed the petition. On October 20, 2006, mailed a request for reconsideration of petition under 37 CFR 1.47(a). On June 17, 2008, the Office mailed a copy of the decision on the request for reconsideration of petition, whereby the Office dismissed the petition. The decision states, "Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted."

On August 28, 2008, the Office mailed a Notice of Withdrawal from Issue under 37 CFR 1.313(b). On September 2, 2008, the Office mailed a Notice of Abandonment stating, "This application is abandoned in view of: Applicant's failure to timely file a proper reply to the Office letter mailed on 17 June 2008." However, as Applicant noted above, the Office letter mailed June 17, 2008, expressly stated that "Extensions of time under 37 CFR 1.136(a) are permitted." Applicant files

herewith a Request for Reconsideration of Petition under 37 CFR 1.47(a), including a Petition for Extension of Time under 37 CFR 1.136(a) and the corresponding extension fee. Thus, Applicant submits Applicant's response is timely, as expressly provided by the Office letter mailed June 17, 2008, and, therefore, Applicant submits the Notice of Abandonment is improper and respectfully requests the holding of abandonment be withdrawn.

Applicant notes MPEP § 711.03(c) states, in part, as follows:

37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181 (f).

Applicant submits the present petition to withdraw the holding of abandonment is being filed within two months of the mail date of the notice of abandonment. Thus, Applicant submits the present petition may not be dismissed as untimely.

Applicant also notes MPEP § 711.03(c) states, in part, as follows:

Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee.

Thus, Applicant submits no fee is required for the present petition for withdrawal of holding of abandonment. However, the Director is hereby authorized to charge any fee pertaining to this communication, and to refund any overpayment, to Deposit Account No. 50-1566.

In the alternative, if the Office should hold that the abandonment was proper and that above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office, Applicant respectfully petitions for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b). In such an event, the date of abandonment would the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained. In such an event, **APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**. The entire delay in filing the required reply from the due date until the filing of this petition was unintentional as set forth under 37 C.F.R. §

1.137(b)(3). The Director is hereby authorized to charge any fee pertaining to this communication, and to refund any overpayment, to Deposit Account No. 50-1566.

Respectfully submitted,

10/17/2008
Date



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